

II. Claims 29-32, drawn to a method for determining the orientation of a molecular species within a planar surface.

The Examiner alleged that the inventions are distinct, each from the other because of the following reasons. The Examiner alleged that the inventions of Group I and II are unrelated. The Examiner stated that inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP §806.04, MPEP §808.01). The Examiner stated that in the instant case, the method of invention I involves labeling the molecule with a second harmonic-active moiety and detecting the molecule at the interface and does not involve labeling the species, whereas invention II involves labeling the species and also requires measuring the polarization of second harmonic light, and that invention II also requires the use of x-ray crystallography, which is not required by invention I.

The Examiner stated that because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and the search required for one group is not required for other, restriction for examination purposes as indicated is proper.

The Examiner advised applicants that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirements be traversed (37 C.F.R. §1.143).

In response to this restriction requirement, applicants hereby elect, with traverse, to prosecute the invention of Group I,

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claims 1-28, drawn to a method for detecting a molecule at an interface, and a method for detecting a molecule in a medium.

Applicants note that 35 U.S.C. §121 states, in part, that "[i]f two or more independent and distinct inventions are claimed in one application, the Commissioner may require the application to be restricted to one of the inventions." [Emphasis added]. Applicants request that the restriction requirement be withdrawn in view of the fact that the claims of the Groups I and II are not independent.

Under M.P.E.P. §802.01, "independent" means "there is no disclosed relationship between the ... subjects disclosed, that is, they are unconnected in design, operation, or effect... ." The claims of Groups I and II are related in that they are drawn to methods which involve detecting molecules using a second harmonic-active label.

Applicants therefore respectfully assert that two or more independent and distinct inventions have not been claimed in the subject application because the groups are not independent under M.P.E.P. §802.01.

Additionally, applicants point out that under M.P.E.P. §803, the Examiner must examine the application on the merits, even though it includes claims to distinct inventions, if the search and examination of an application can be made without serious burden. There are two criteria for a proper requirement for restriction, namely (1) the inventions must be independent and distinct; AND (2) there must be a serious burden on the Examiner if restriction is not required.

Applicants maintain that there would not be a serious burden on

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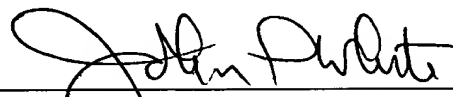
the Examiner if restriction were not required. A search of prior art with regard to Groups I or II would necessarily identify art for the other Group. Since there is no serious burden on the Examiner to examine Groups I and II in the subject application, the Examiner must examine the entire application on the merits.

Accordingly, in view of the preceding remarks, applicants respectfully request that the Examiner reconsider and withdraw the requirement for restriction.

If a telephone conference would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

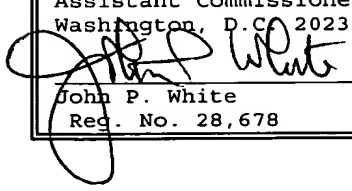
No fee is deemed necessary in connection with the filing of this Communication. However, if a fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:  
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